

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CAROL'S DAUGHTER HOLDINGS, LLC,

Plaintiff,

v.

CAROL'S EXPRESS LLC, CVS PHARMACY,  
INC., TURNS & TRENDS, INC., and  
DONYALE JERMAINE BUSH,

Defendants.

No. 08-CV-8498 (GBD)(AJP)

**DECLARATION OF LORI HARAM IN SUPPORT OF  
CAROL'S DAUGHTER HOLDINGS, LLC'S ORDER TO SHOW CAUSE  
AS TO WHY A PRELIMINARY INJUNCTION SHOULD NOT ISSUE**

I, LORI HARAM, pursuant to 28 U.S.C. section 1746, declare as follows:

1. I am the General Manager of Plaintiff Carol's Daughter Holdings, LLC ("Carol's Daughter"). I make this declaration based on my personal knowledge, and if called as a witness, I could and would testify competently hereto. I understand that my Declaration will be offered in support of Carol's Daughter's proposed Order to Show Cause, and I state that Carol's Daughter has made no previous application for relief to this Court or any other court on this matter.

2. Carol's Daughter is the manufacturer, distributor and retailer of high quality beauty and personal care products under the registered trademark CAROL'S DAUGHTER depicted below:



3. Carol's Daughter also uses an unregistered mark called Carol's Daughter "Beauty by Nature":



4. Carol's Daughter's corporate affiliates presently operate seven stores in the United States and sell products online in both the United States and Canada. Carol's Daughter also maintains a wholesale distribution network, which includes Macy's Dillards, Sephora, salons, boutiques and even select university bookstores.

5. Carol's Daughter products have been featured on television in *The Oprah Winfrey Show*, *The Today Show*, *The View*, *The Tyra Banks Show*, and the *Home Shopping Network*, among others, and in print in *Ebony*, *Essence*, *Glamour*, *InStyle*, *Upscale* and *Lucky* among others. Indeed, Lisa Price, the President of Carol's Daughter, is featured in the current issue of *Newsweek*. A copy of the *Newsweek* article is attached as Exhibit 1.

6. Carol's Daughter has been recognized as one of the top 50 marketing innovators of the year by Advertising Age, the leading global source of new, intelligence and conversation for marketing and media communities.

7. Recently, I learned that a new company calling itself “Carol’s Express” entered the market for beauty and personal care products. Carol’s Express appears to have directed its marketing efforts toward the African American community, to whom Carol’s Daughter presently concentrates its sales. Carol’s Express also uses a logo that is confusingly similar to that of Carol’s Daughter. A reproduction of the Carol’s Express mark appears below:



8. Unlike Carol’s Daughter, however, the Carol’s Express products are manufactured using artificial colors and compounds known to cause skin irritation in certain people. Carol’s Express also sells its products at a lower price.

9. Carol’s Express’s initial description in its trademark application, filed on April 28, 2008, stated that its “mark consists of stylized text of Carol’s Daughter with symbol/image rose.” [Emphasis added.] A copy of this document from Carol’s Express’s application is attached as Exhibit 2.

10. Carol’s Express created a website featuring what purported to be Carol’s Express products running along both the left edge and the upper right corner of the screen. Closer examination of the products seems to show that the labeling for the products follow the Carol’s Daughter design. The only difference between the items depicted in Carol’s Express’s website and Carol’s Daughter’s genuine products appeared to be that the depicted products had Carol’s Express’s logo superimposed over the Carol’s Daughter logo in the label. A printout of this page from the Carol’s Express website is attached as Exhibit 3.

11. Through our lawyers, on July 28 and 29, 2008, Carol's Daughter sent a notice to each of the defendants to complain of their infringement. Copies of these notices are attached as Exhibits 4 and 5.

12. Carol's Express adopted a set of labels that are deceptively similar to those of Carol's Daughter and even uses the same bottles and jars used by Carol's Daughter for their products.

13. Carol's Daughter features a line of shea body lotions and body cleansing gels in various scents, including "Almond Cookie," "Mango M lange" and "Jamaican Punch." Carol's Daughter's shea body lotion and the body cleansing gels are sold in 8 fluid ounce transparent plastic bottles. Copying the Carol's Daughter line, Carol's Express also seems to feature a three-fragrance line of shea body lotions and body cleansing gels with scents named "Almond," "Mango" and "Kai." Like the Carol's Daughter products, Carol's Express's shea body lotion and body cleansing gels are sold in 8 fluid ounce transparent plastic bottles.

14. Carol's Daughter carries a line of "shea souff s." The term "shea souff " was a name conceived by Carol's Daughter and was never used before Carol's Daughter began marketing it. Among the fragrances for the Carol's Daughter shea souff s are "Almond Cookie," "Mango M lange" and "Jamaican Punch." Carol's Daughter's shea souff  is sold in 4-ounce transparent plastic cylindrical jars with a screw-on rounded top. (We carry a 16-ounce version as well.) Carol's Express also began to market "shea souffle" [sic] in three scents—"Almond," "Mango" and "Kai"—which are imitations of the three Carol's Daughter scents mentioned above. Carol's Express's "shea souffle" [sic] is also sold in 4-ounce transparent plastic cylindrical jar with a screw-on rounded top.

15. As a retail product, Carol's Daughter derives a substantial proportion of its revenue from holiday sales. The holiday shopping season begins in three weeks.

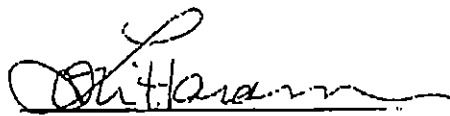
16. Carol's Express has begun mass-marketing its products with the national pharmacy chain CVS. Specifically, Carol's Express is distributed at a CVS at 105 West 125<sup>th</sup> Street in Harlem, right down the street from one of Carol's Daughter's retail stores located at 24 West 125<sup>th</sup> Street, and at CVS locations nationwide.

17. In view of economic circumstances, consumers might purchase Carol's Express products under the mistaken belief that they are a less expensive version of genuine Carol's Daughter products.

18. Carol's Express products have been on the market at least since July 2008, when several customers inquired into the relationship between Carol's Express and Carol's Daughter.

19. Carol's Daughter received two emails in July and one in September from consumers who asked about the relationship between Carol's Express products and Carol's Daughter. Copies of these e-mails are attached as Exhibit 6.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I executed this declaration on October 8, 2008 in New York, New York.

  
Lori Haurin

# EXHIBIT 1

THE 'LIFE JACKET' ECONOMY | WOMEN & LEADERSHIP

# Newsweek®

Daniel Gross,  
Robert J. Samuelson,  
Jacob Weisberg  
and Fareed Zakaria on

## How to **FIX** Capitalism

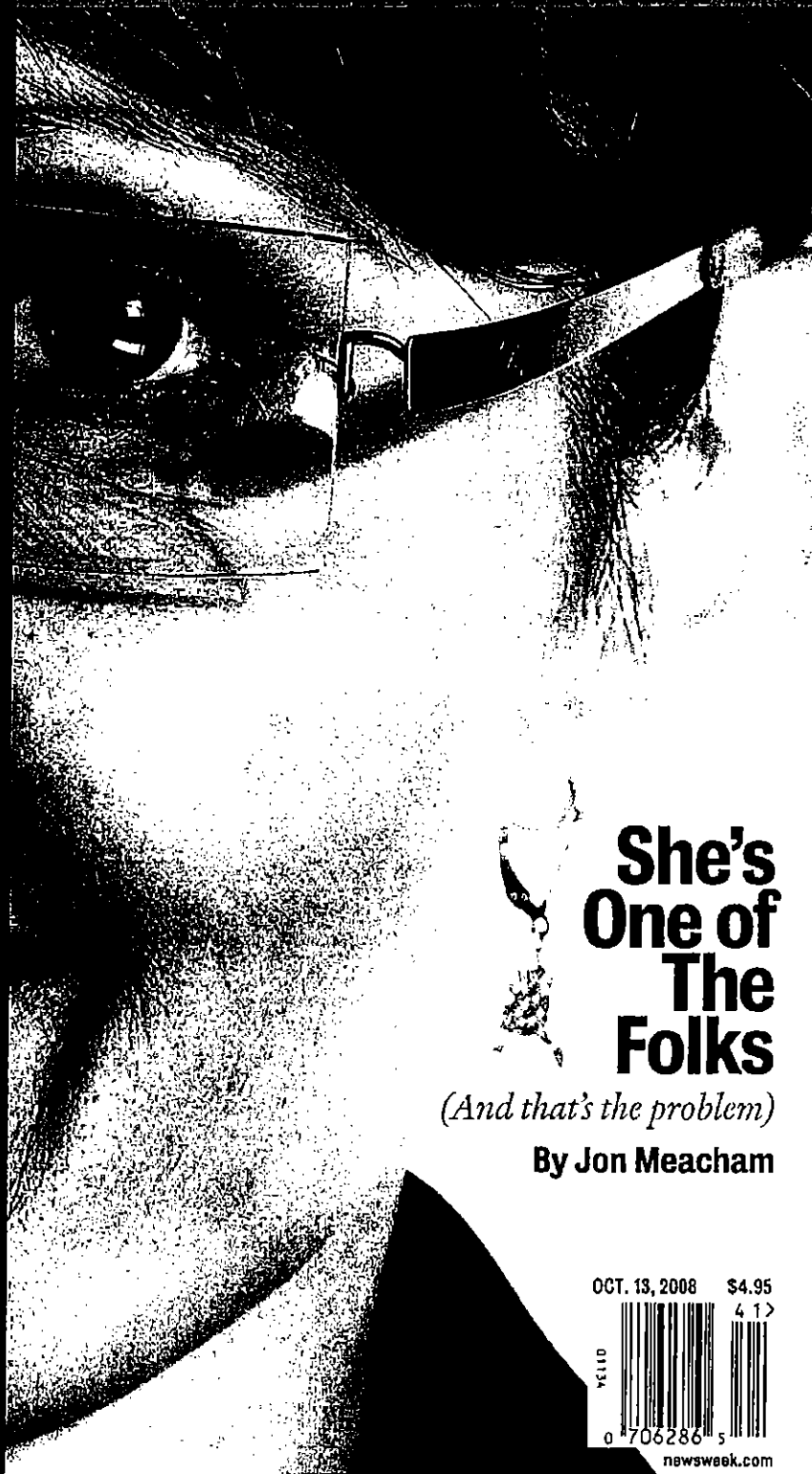
The Reason for Palin,  
And What McCain Must Do  
By Karl Rove

Biden Off the Record  
By Jonathan Alter

The End of the Age of Reagan  
By Francis Fukuyama

Women and Leadership:  
Lessons and Oral Histories  
From Female Trailblazers

In Search of Sally Hemings  
By Jennie Yabroff



**She's  
One of  
The  
Folks**

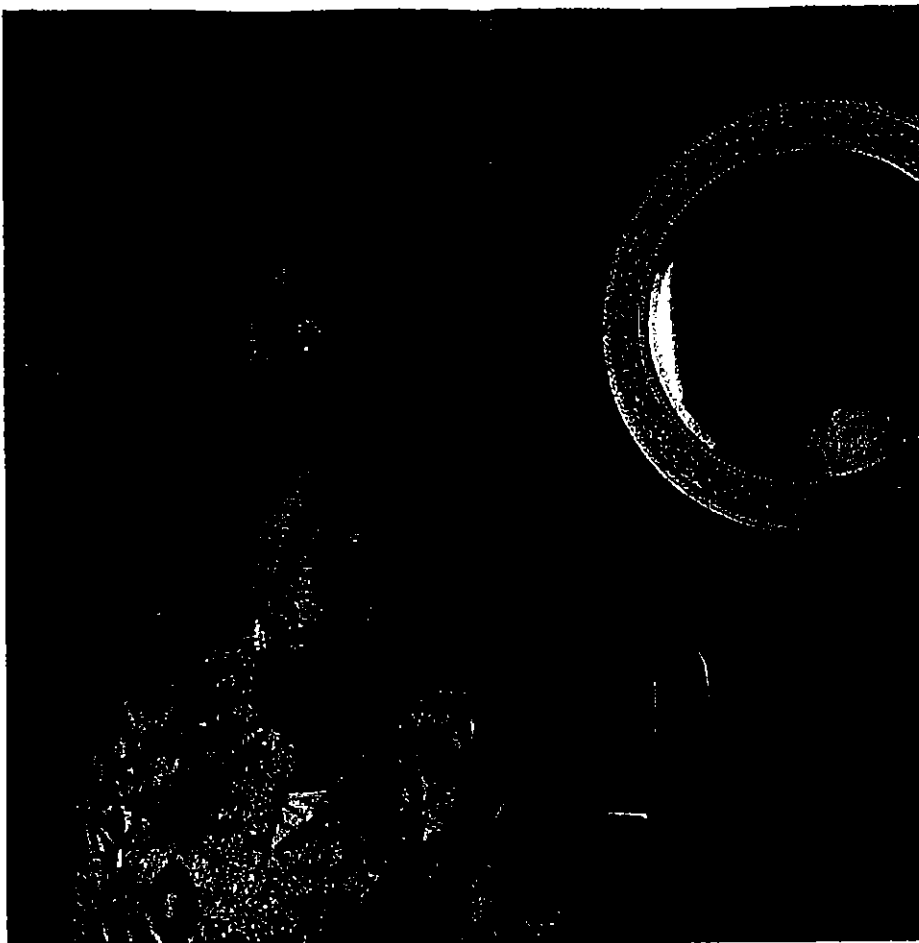
*(And that's the problem)*

By Jon Meacham

OCT. 13, 2008 \$4.95



newsweek.com



**LISA PRICE, Founder, Carol's Daughter Bath and Body Works**

## The Sweet Smell of Success, Thanks to Mom

**M**Y IDEAS ABOUT HOW I want to run my business grew out of the way I was raised. None of my successes would have been possible without my family. I may feel frightened or scared or unsure about what I'm supposed to do next, but I have never felt alone. My grandparents emigrated from Trinidad. My mom's mom and dad had seven children; my mom was the baby. The seven children raised their children the way they were raised, so my cousins are like brothers and sisters to me.

I have loved fragrance since I was a small child. I used my allowance to buy perfume, not clothes. I was a huge Prince fan, and I read that he had a fragrance bar on his dresser so he could mix

scents. So I found a way to make my own fragrances blending perfume oils.

Over the years, it became something I did to relax. My mother was the one who suggested I start selling my body cream at a church flea market in the summer of 1993. By the end of that first day, I was pretty much sold out. I made another batch and spent most of that summer at street fairs and flea markets, paying close attention to my customers. I noticed that they were looking for hair products. So I started making things for hair to keep them from walking away from my table.

My day job was in television and film production, but customers started to call me for refills. The weather was too cold for flea markets, so I had

them come to my apartment. I continued selling out of my home until 1996, when I was expecting my first child. I quit TV because I knew I couldn't do that, be a mom, be a wife and do this business.

I came up with the name at the very beginning. I made a list of things that I was and a list of things I wanted to become. There were other things on the list, like Robert's daughter and Gordon's girlfriend. But when I said Carol's daughter, I got goose

**I have loved fragrance since I was a child. I used my allowance to buy perfume.**

bumps. It sounded right.

My mother and I used to joke about it over the years. She would say, "Have you made enough money for me to sue you for using my name?" When she died, someone at her wake said to me, "It's so wonderful that you honored your mother while she was still here." My mother spent most of her adult life sick. When she was in her early 20s, she was diagnosed with polymyositis. It's a collagen vascular disease, and it attacks the muscles and the nervous system. She never complained, but I can remember times when I would hear her scream because her legs had cramped up. We would have to massage her legs and help her breathe through it.

As I was growing the business, I would sometimes feel overwhelmed. But my mother taught me to smile through adversity, to know that I wouldn't be given the job if I couldn't do it. It's appropriate that the company is named after her.

The other important person in my company's growth is Steve Stoute. He is a hardworking, self-made entrepreneur who began in the music business. He is also a brilliant marketer who has helped me take things to the next level by recruiting celebrity investors and spokesmodels like Jada Pinkett Smith and Mary J. Blige. We wouldn't be in Sephora if I were still on my own. We wouldn't be in Macy's. That's what you give up equity for. You do that to grow.

Carol's Daughter has made other people in the beauty business look at African-American consumers in a different way. When I first started to do this, the black products were always at the back of the drugstore on the lower shelves. They were always dusty, dirty and sticky; they looked like nobody ever touched them. That's changing. I can't begin to tell you how amazing it is that my products are in Sephora. It's great to be part of that shift.



# EXHIBIT 2

## Trademark/Service Mark Application, Principal Register

Serial Number: 77459715

Filing Date: 04/28/2008

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	77459715
<b>MARK INFORMATION</b>	
*MARK	\\TICRS\EXPORT\IMAGEOUT\77459715\XML\1\APP0 002.JPG
SPECIAL FORM	YES
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	Carol's Express
COLOR MARK	NO
*DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of Stylized text of Carol's Daughter with symbol/image of rose.
PIXEL COUNT ACCEPTABLE	YES
PIXEL COUNT	813 x 467
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Bush, Donyale Jermaine
*STREET	832 W Panorama Dr. #210
*CITY	Palatine
*STATE (Required for U.S. applicants)	Illinois
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	60067
PHONE	815-263-4350
EMAIL ADDRESS	donyalebush@yahoo.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>LEGAL ENTITY INFORMATION</b>	
TYPE	individual
COUNTRY OF CITIZENSHIP	United States
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
INTERNATIONAL CLASS	003
IDENTIFICATION	Aromatherapy body care products, namely, body lotion, shower gel, cuticle cream, shampoo, conditioner, non-medicated lip balm, soap, body polish, body and foot scrub and non-medicated foot cream
FILING BASIS	SECTION 1(b)
<b>CORRESPONDENCE INFORMATION</b>	
NAME	Bush, Donyale Jermaine
STREET	832 W Panorama Dr. #210
CITY	Palatine
STATE	Illinois

<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	60067
<b>PHONE</b>	815-263-4350
<b>EMAIL ADDRESS</b>	donyalebush@yahoo.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>FEE INFORMATION</b>	
<b>NUMBER OF CLASSES</b>	1
<b>FEE PER CLASS</b>	325
<b>TOTAL FEE DUE</b>	325
<b>TOTAL FEE PAID</b>	325
<b>SIGNATURE INFORMATION</b>	
<b>SIGNATURE</b>	/db/
<b>SIGNATORY'S NAME</b>	Donyale Bush
<b>SIGNATORY'S POSITION</b>	Owner
<b>DATE SIGNED</b>	04/28/2008

P/T/O Form 1478 (Rev. 02/2006)  
 OLSA No. (651-1009) (Exp. 06/30/2008)

### Trademark/Service Mark Application, Principal Register

Serial Number: 77459715

Filing Date: 04/28/2008

To the Commissioner for Trademarks:

**MARK:** Carol's Express (stylized and/or with design, see mark)

The literal element of the mark consists of Carol's Express.

The applicant is not claiming color as a feature of the mark. The mark consists of Stylized text of Carol's Daughter with symbol/image of rose. The applicant, Donyale Jermaine Bush, a citizen of United States, having an address of 832 W Panorama Dr. #210, Palatine, Illinois, United States, 60067, requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 003: Aromatherapy body care products, namely, body lotion, shower gel, cuticle cream, shampoo, conditioner, non-medicated lip balm, soap, body polish, body and foot scrub and non-medicated foot cream

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

Correspondence Information: Bush, Donyale Jermaine  
 832 W Panorama Dr. #210  
 Palatine, Illinois 60067  
 815-263-4350(phone)  
 donyalebush@yahoo.com (authorized)

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

### Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she



believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /db/ Date Signed: 04/28/2008  
Signatory's Name: Donyale Bush  
Signatory's Position: Owner

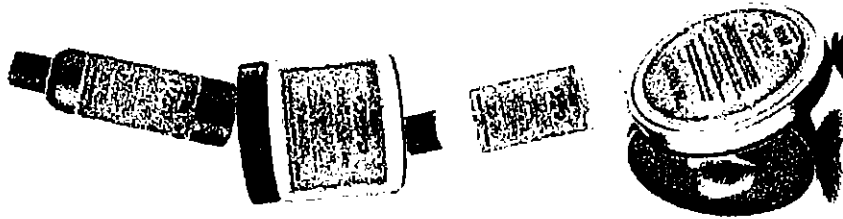
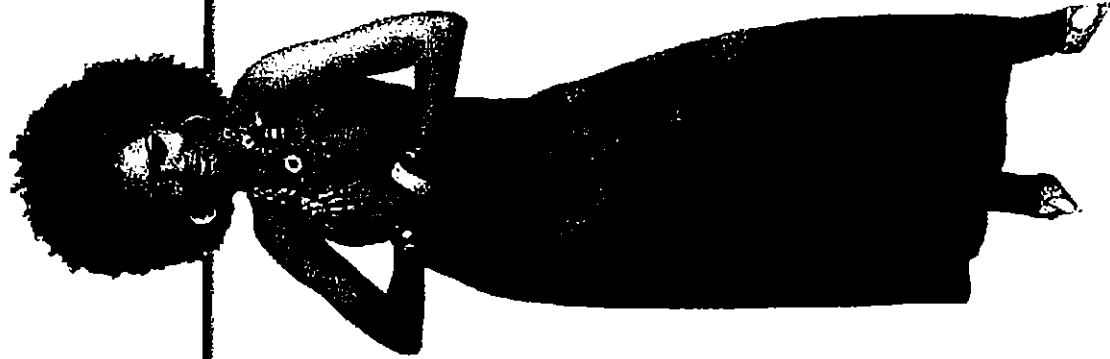
RAM Sale Number: 1398  
RAM Accounting Date: 04/29/2008

Serial Number: 77459715  
Internet Transmission Date: Mon Apr 28 16:04:12 EDT 2008  
TEAS Stamp: USPTO/BAS-76.255.174.74-2008042816041227  
4769-77459715-400025ce48d13d05743af5112c  
142cfc7-CC-1398-20080428155941902302

# EXHIBIT 3

 shopping cart  login | register

*Carol's*  
express



# AT LAST...

Express yourself.

Caress yourself.

Moisturize your skin  
with natural oils.

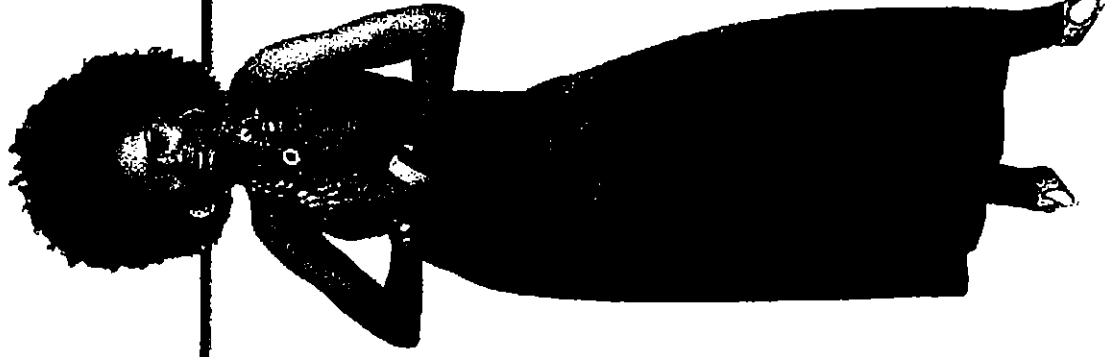
Wash away all  
that the day has done.

Prepare for all  
that the evening holds.

the beginning | the experience | the convenience | the collection | the fragrances | the story | the people

 shopping cart  login | register

 **Carol's**  
express



## AN EXPERIENCE

Carol's Express is organic, natural, familiar, personal, substantial, warm, comfortable, inspirational, emotional and fulfilling for all women.

A natural word play where the products themselves provide inspiration and actualization of expression every day.

## TO REMEMBER

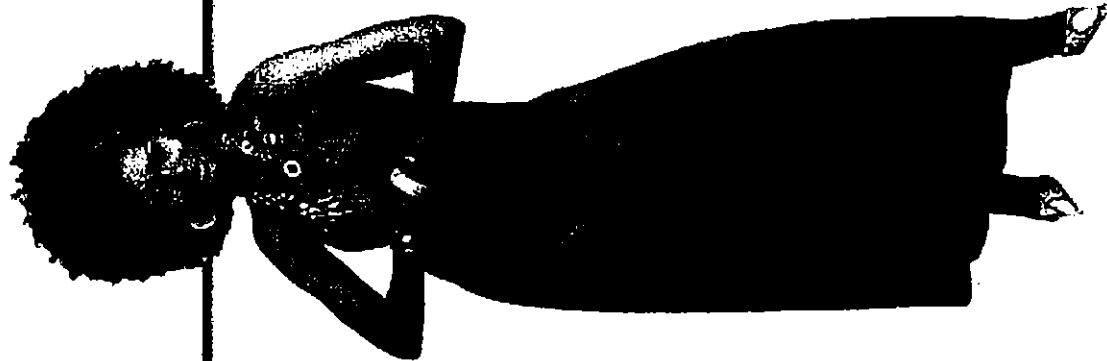
Symbolized by the rose, the only flower which is incapable of producing anything but a fragrant aroma.

Perfect for this organic, natural, personal and inspirational product designed to fulfill the needs for women of all ages.

the beginning | the experience | the convenience | the collection | the fragrances | the story | the people

 shopping cart  login | register

 **Carol's**  
express



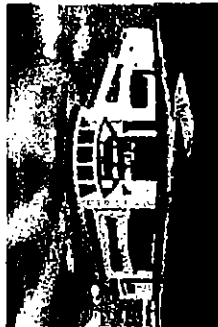
AVAILABLE  
RIGHT IN YOUR

Now you can have the  
Department Store  
experience without going to  
the mall. Carol's express is  
right around the corner  
right in your neighborhood.

NEIGHBORHOOD

Find Carol's Express  
at a CVS/pharmacy  
store near you.

Store Locator



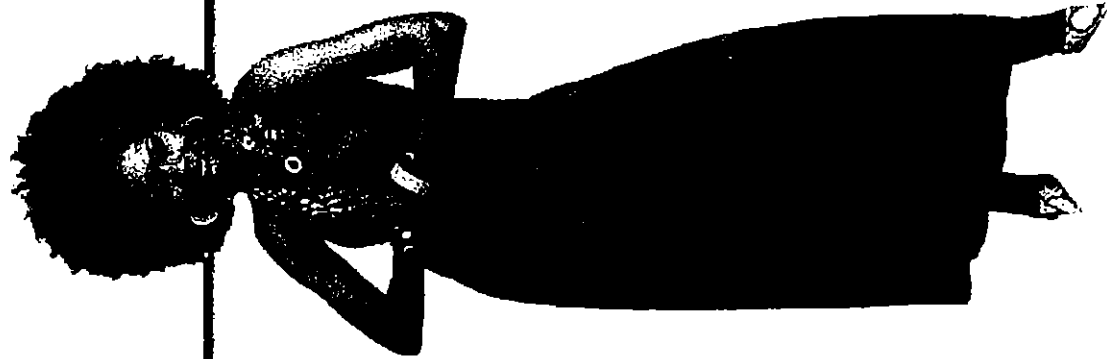
**CVS/pharmacy**

the beginning | the experience | the convenience | the collection | the fragrances | the story | the people



 shopping cart  login | register

**Carol's**  
express



## THE COLLECTION



### BODY CLEANSING GEL

A soothing sweet spa-like body cleansing gel infused with luscious fragrances for an aromatic therapeutic bath.

### SHEA SOUFFLE

A lightweight moisturizer for Hand and Body with smooth silky application

### SHEA BODY LOTION

A naturally conditioning moisturizing lotion that hydrates as it soothes with antioxidants.

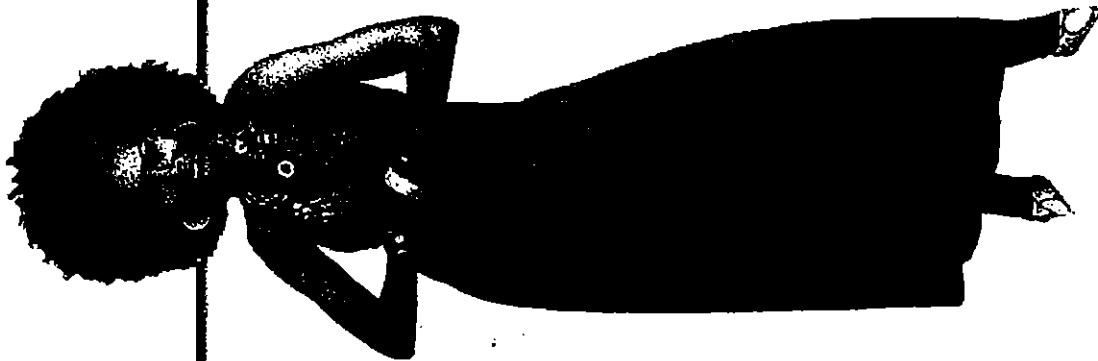
### BODY BUTTER

A nourishing blend of rich, natural butters that leave your skin smooth, silky and radiant.

Look for more products to come from Carol's Express in the near future. It is our goal to market the best possible products for your skin and hair care needs.

We are constant striving to bring you the latest breakthrough products and to make your shopping experience clear, convenient and above all, healthy.

the beginning | the experience | the convenience | the collection | the fragrances | the story | the people

[shopping cart](#) [login](#) | [register](#)


## Join Our Team

Carol's Express is currently looking for Sales Representatives who have a knack for matching customer needs with just the right Hair and Skin care products. They're knowledgeable, customer-friendly and persuasive pros that are service-oriented, are motivated by a little friendly competition, and get a real kick out of a job well done. Our Reps also tend to thrive in a fast-paced environment and can handle all kinds of customers with ease. They enjoy both the flexible schedule this position affords and the camaraderie of being part of a hard-working sales team.

### RESPONSIBILITIES

Retail Sales Representatives are expected to:

- Excel in customer service
- Keep Retail managers, employees, and customers abreast on current Carol's Express Products
- Reap the many rewards of meeting or exceeding monthly sales goals
- Handle multi-tasking in multiple stores with ease
- Provide Retail follow-up and ensure

customer loyalty

#### QUALIFICATIONS

- Previous retail or customer service-oriented experience
- Able to work with little supervision
- Availability for flexible scheduling
- Professionalism, Outgoing personality, and Engaging Personality
- Adaptability
- Light computer skills

If interested in this position please e-mail resume and headshot (picture) to Maya Williamson at [Maya.Williamson@carolsexpress.com](mailto:Maya.Williamson@carolsexpress.com)

the beginning | the experience | the convenience | the collection | the fragrances | the story | the people

# EXHIBIT 4

## JONES DAY

222 EAST 41ST STREET • NEW YORK, NEW YORK 10017-6702  
TELEPHONE 212-326-3939 • FACSIMILE 212-755-7306

Direct Number: 212-326-3908  
eslangston@jonesday.com

524096-605002

July 28, 2008

Ms. Maya Williamson *Via UPS and Email*  
Carol's Express  
6955 W. North Ave., Suite 204  
Oak Park, Illinois 60302  
[Maya.Williamson@carolsexpress.com](mailto:Maya.Williamson@carolsexpress.com)

Turns & Trends, Inc. *Via UPS and Email*  
7115 W. North Ave., No. 305  
Oak Park, Illinois 60302  
[support@turnstrends.com](mailto:support@turnstrends.com)

Ms. Donyale Jermaine Bush *Via UPS*  
832 W. Panorama Dr., Apt. 210  
Palatine, Illinois 60067

Re: Carol's Daughter Holdings LLC v. Carol's Express

Dear Madam/Sir:

We represent Carol's Daughter Holdings LLC ("Carol's Daughter"), the owner of the well-known name and mark CAROL'S DAUGHTER which is used to identify a wide variety of beauty and personal care products and related goods and services.

It has come to our client's attention that you have adopted and are using as your company name and as a designation for beauty/personal care products the name "Carol's Express" in a stylized script and with a flower design (hereafter "Carol's Express name") that is meant to imitate and copy that used by our client. We are also aware that on April 28, 2008, a trademark application for the Carol's Express name was filed under U.S. Application No. 77/459,715 for "aromatherapy body care products, namely, body lotion, shower gel, cuticle cream, shampoo, conditioner, non-medicated lip balm, soap, body polish, body and foot scrub and non-medicated foot cream" in the name of Donyale Jermaine Bush.

As you are undoubtedly aware, Carol's Daughter has continuously used in connection with its products and services the name and mark CAROL'S DAUGHTER, including in a distinctive stylized script in combination with a flower design (hereafter "CAROL'S DAUGHTER Marks"). As a result of our client's extensive sales, significant advertising and widespread publicity of its products under the CAROL'S DAUGHTER Marks, and the quality of the products themselves, the CAROL'S DAUGHTER Marks have developed tremendous

JONES DAY

July 28, 2008

Page 2

goodwill and are among our client's most valuable assets. Enclosed for your reference is a copy of our client's federal trademark registrations for its CAROL'S DAUGHTER Marks.

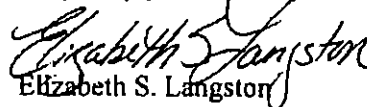
It is clear that your activities are an attempt to imitate the overall commercial impression of our client's products and trade on the goodwill and reputation associated with the CAROL'S DAUGHTER Marks. For example, in U.S. Application No. 77/459,715, it is expressly stated that the Carol's Express name "consists of [s]tylized text of Carol's Daughter with symbol/image of rose." Additionally, the product images displayed on your Web site at [www.carolsexpress.com](http://www.carolsexpress.com) appear to have been copied directly from our client's Web site, merely replacing our client's trademark with the Carol's Express name. (See enclosed copies of representative pages from the parties' respective Web sites.) Thus, we can only conclude that your adoption and use of the Carol's Express name is an intentional act to misappropriate our client's intellectual property rights and will not be tolerated.

Furthermore, the use of the Carol's Express name is likely to cause confusion, to cause mistake and to deceive consumers into believing that your products are affiliated with Carol's Daughter, and is likely to dilute the distinctiveness of the CAROL'S DAUGHTER Marks. Moreover, your use of the Carol's Express name is likely to lead consumers to believe that your products are associated with our client's products or that your products originate with or are sponsored by Carol's Daughter when in fact no relationship exists, thereby infringing our client's intellectual property rights in violation of federal and state trademark, trade dress and unfair competition laws. We therefore demand that you immediately (i) cease all use of the Carol's Express name in connection with beauty/personal care products and any other related goods or services, (ii) cease all use of our client's product images, labels, product packaging and any other materials of our client, (iii) expressly abandon U.S. Application No. 77/459,715, (iv) recall all products and any other items bearing the Carol's Express name, and (v) supply to us all products (including recalled products), labels, product packaging and any other items that bear the Carol's Express name.

If we do not receive your written confirmation by August 11, 2008 that you will comply with the above demands, we will recommend to our client that it take all appropriate action to protect its valuable rights in and to its CAROL'S DAUGHTER Marks and related intellectual property.

This letter does not constitute a complete statement of Carol's Daughter's claims, rights, or remedies with respect to this matter, all of which are hereby expressly reserved.

Very truly yours,

  
Elizabeth S. Langston

Enclosures

c: David L. Witcoff, Esq. – Jones Day Chicago

Int. Cls.: 3, 4 and 35

Prior U.S. Cls.: 1, 4, 6, 15, 50, 51, 52, 100, 101 and 102

United States Patent and Trademark Office

Reg. No. 3,090,258

Registered May 9, 2006

TRADEMARK  
SERVICE MARK  
PRINCIPAL REGISTER



Carol's Daughter

LISA'S KITCHEN, LLC (DELAWARE LTD LIAB  
CO)

282 VAN BUREN STREET  
BROOKLYN, NY 11221

FOR: BODY CARE PRODUCTS, NAMELY, BODY  
BUTTERS, BODY AND BATH OILS, LIQUID SOAPS,  
BAR SOAPS, MASSAGE OILS, NON-MEDICATED  
BATH SALTS, BODY SCRUBS, BODY JELLIES,  
LOTIONS, CREAMS, NON-MEDICATED LIP BALM,  
FACIAL CLEANSERS, FACIAL TONERS, SHAVING  
LOTION; HAIR SHAMPOOS, HAIR RINSES, HAIR  
CONDITIONERS, HAIR POMADES, HAIR OILS;  
PERFUMES AND FRAGRANCES; INCENSE; POT-  
POURRI, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

FIRST USE 12-1-2004; IN COMMERCE 12-1-2004.

FOR: CANDLES, IN CLASS 4 (U.S. CLS. 1, 6 AND  
15).

FIRST USE 12-1-2004; IN COMMERCE 12-1-2004.

FOR: ELECTRONIC AND MAIL ORDER CATA-  
LOG SERVICES FEATURING BODY AND HAIR  
CARE PRODUCTS, FRAGRANCES, INCENSE, POT-  
POURRI AND CANDLES, IN CLASS 35 (U.S. CLS.  
100, 101 AND 102).

FIRST USE 12-1-2004; IN COMMERCE 12-1-2004.

OWNER OF U.S. REG. NO. 2,267,239.

SER. NO. 78-638,859, FILED 5-27-2005.

JASON ROTH, EXAMINING ATTORNEY

**Int. Cls.: 3, 4 and 35**

**Prior U.S. Cls.: 1, 4, 6, 15, 50, 51, 52, 100, 101 and 102**

**United States Patent and Trademark Office**

**Reg. No. 3,090,260**

**Registered May 9, 2006**

**TRADEMARK  
SERVICE MARK  
PRINCIPAL REGISTER**

**CAROL'S DAUGHTER**

**LISA'S KITCHEN, LLC (DELAWARE LTD LIAB  
CO)  
282 VAN BUREN STREET  
BROOKLYN, NY 11221**

**FOR: BODY CARE PRODUCTS, NAMELY, BODY  
BUTTERS, BODY AND BATH OILS, LIQUID SOAPS,  
BAR SOAPS, MASSAGE OILS, NON-MEDICATED  
BATH SALTS, BODY SCRUBS, BODY JELLIES,  
LOTIONS, CREAMS, NON-MEDICATED LIP BALM,  
FACIAL CLEANSERS, FACIAL TONERS, SHAVING  
LOTION; HAIR SHAMPOOS, HAIR RINSES, HAIR  
CONDITIONERS, HAIR POMADES, HAIR OILS;  
PERFUMES AND FRAGRANCES; INCENSE; POT-  
POURRI, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).**

**FIRST USE 12-1-2004; IN COMMERCE 12-1-2004.**

**FOR: CANDLES, IN CLASS 4 (U.S. CLS. 1, 6 AND  
15).**

**FIRST USE 12-1-2004; IN COMMERCE 12-1-2004.**

**FOR: ELECTRONIC AND MAIL ORDER CATA-  
LOG SERVICES FEATURING BODY AND HAIR  
CARE PRODUCTS, FRAGRANCES, INCENSE, POT-  
POURRI AND CANDLES, IN CLASS 35 (U.S. CLS.  
100, 101 AND 102).**

**FIRST USE 12-1-2004; IN COMMERCE 12-1-2004.**

**THE MARK CONSISTS OF STANDARD CHAR-  
ACTERS WITHOUT CLAIM TO ANY PARTICULAR  
FONT, STYLE, SIZE, OR COLOR.**

**OWNER OF U.S. REG. NO. 2,267,239.**

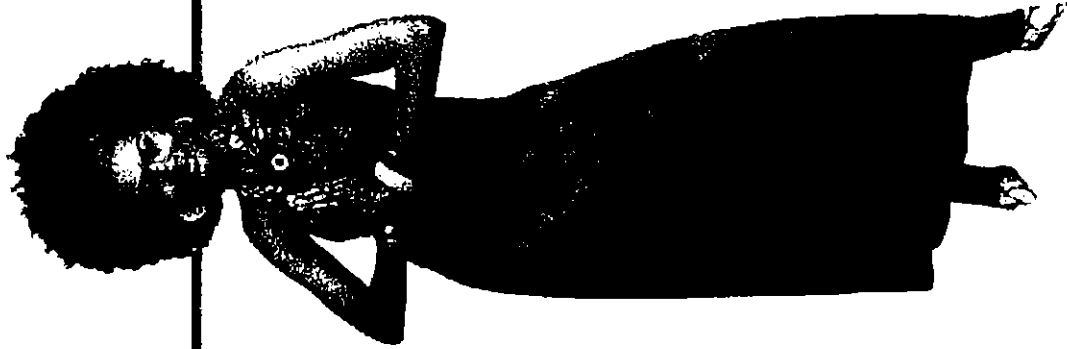
**SER. NO. 78-638,904, FILED 5-27-2005.**

**JASON ROTH, EXAMINING ATTORNEY**

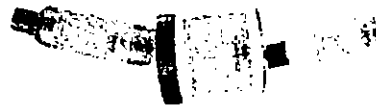


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**Carol's**  
express



## THE COLLECTION



### BODY CLEANSING GEL

A soothing sweet sparkling body cleansing gel infused with luscious fragrances for an aromatic therapeutic bath.



### SHEA SOUFFLE

A lightweight moisturizer for Hand and Body with smooth silky application



### SHEA BODY LOTION

A naturally conditioning moisturizing lotion that hydrates as it soothes with antioxidants




### BODY BUTTER

A nourishing blend of rich, natural butters that leave your skin smooth, silky and radiant.

Look for more products to come from Carol's express in the near future. It is our goal to market the best possible products for your skin and hair care needs.

We are constant striving to bring you the latest breakthrough products and to make your shopping experience clear, convenient and above all, healthy.

[the beginning](#) | [the experience](#) | [the convenience](#) | [the collection](#) | [the fragrances](#) | [the story](#) | [the people](#)



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Catalog Quick Shop | Catalog Request | Email Signup

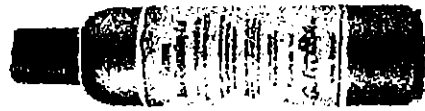
Keyword or Item:   [Advanced Search](#)

Shopping Bag  
0 items \$0.00

Customer Service 877-546-2101 (Se habla español)

Home > Bath & Body > Body Cleansing Gels

Hair Bath & Body Fragrance Skincare Hands & Feet Color Men Collections Gifts



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## Groove Body Cleansing Gel

8 fl. oz.

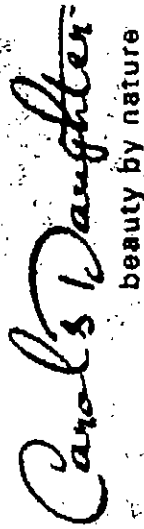
A natural soap blend, derived from coconut, olive and jojoba oils combined with exotic aromas for a gentle rich lather that leaves skin fresh, clean, rejuvenated and moisturized. Perfect for shower or bath.

A seductive flow of red currant and sugared dewberries, embraced by undertones of decadent nuances of Tahitian vanilla, cocoa and rich musk add to the finishing touches.

- Vegetable soap
- Sodium lauryl/laureth sulfate, paraben and artificial color FREE
- Contains organic oils of coconut, jojoba and olive
- Perfect for all skin types

[Customer Reviews](#) [More Info](#) [Tell a Friend](#)

Item#	Product	Qty	Price
05-	Groove Body Cleansing Gel -		We regret that this item is not available at



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 Customer Service 877-548-2101 (Se habla español)

Keyword or Item #  **GO**  
 Advanced Search

Shopping Bag  
 0 items \$0.00

Home > Bath & Body > Shea Soufflés

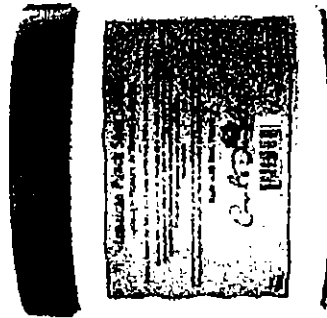
Hair Bath & Body Fragrance Skincare Hands & Feet Color Men Collections Gifts

Home > Bath & Body > Shea Soufflés

◀ PREVIOUS | NEXT ▶

## Jamaican Punch Shea Soufflé

4 oz. - 16 oz.



This luxurious formula is light and fluffy like a soufflé, but moisturizes skin with the intensity of a butter. It's packed with natural butters and oils to effectively nourish and hydrate dry, parched skin for a soft and velvety appearance.

A dazzling blend of Brazilian orange and Fiji apple combined with hints of exotic ylang-ylang, spicy canella bark and nutmeg, finished off with a sweet accent of tropical sugar cane.

- Perfect for very dry skin
- Contains 47% of natural butters and oils
- Penetrates deeply
- Paraben, mineral oil, petroleum, and artificial color FREE

[VIEW LARGER](#)

Customer Reviews More Info Tell a Friend

Item#	Product	Qty	Price
13-1160	Jamaican Punch Shea Soufflé	1	\$13.00 - \$30.00



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Customer Service 877-548-2101 (Se habla español)

Keyword or Item #  [GO](#)  
[Advanced Search](#) Shopping Bag  
0 items \$0.00[Home](#) > [Bath & Body](#) > [Lotions](#)[Hair](#)[Bath & Body](#)[Fragrance](#)[Skincare](#)[Hands & Feet](#)[Color](#)[Men](#)[Collections](#)[Gifts](#)[Home](#) > [Bath & Body](#) > [Lotions](#)[PREVIOUS](#) | [NEXT](#)

## Ecstasy Shea Body Lotion

8 fl. oz.

Our Shea Body Lotions are skin's dream come true! Infused with cranberry oil, vitamin E, olive oil and a remarkable amount of shea butter, at 15%, this lotion penetrates deeply into the skin to nourish, condition and moisturize for the incredible, beautiful skin you always dreamed of.

The perfect blend of succulent nectars shines throughout this fruit medley. Accented with Egyptian musk, precious amber, as vanilla bourbon completes this captivating fragrance.

- Perfect for dry skin
- Contains 15% shea butter and cranberry oil
- Absorbs into the skin quickly
- Paraben, mineral oil, petroleum, and artificial color FREE

[VIEW LARGER](#)[Customer Reviews](#)   [More Info](#)   [Tell a Friend](#)

Item#	Product	Qty	Price
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Shopping Bag  
0 items \$0.00

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[Home](#) > [Bath & Body](#) > [Body Butters](#)



[VIEW LARGER](#)

## Groove Body Butter

4 oz.

This superb and rich blend of cocoa and shea butters is the ideal moisturizer for extremely dry skin. The buttery texture is aqua free and glides on smoothly leaving the skin softer than ever before. You'll see and feel the difference instantly.

A seductive flow of red currant and sugared dewberries, embraced by undertones of decadent nuances of Tahitian vanilla, cocoa and rich musk add to the finishing touches.

- Perfect for extremely dry skin
- Aqua free and glides on smoothly
- Paraben, mineral oil, petroleum, and artificial color FREE
- Contains shea and cocoa butter, Jojoba and sweet almond oil

[Customer Reviews](#)   [More Info](#)   [Tell a Friend](#)

Item#	Product	Qty	Price
13-0209	Groove Body Butter (Tin)	<input type="text" value="1"/>	\$18.00

# EXHIBIT 5

# JONES DAY

222 EAST 41ST STREET • NEW YORK, NEW YORK 10017-6702  
TELEPHONE: 212-326-3939 • FACSIMILE: 212-755-7306

Direct Number: 212-326-3908  
eslangston@jonesday.com

524096-605002

July 29, 2008

*Via UPS and Email*

Karen L. Feisthamel, Esq.  
Senior Legal Counsel  
CVS/pharmacy, Inc.  
One CVS Drive  
Woonsocket, RI 02895

Re: Carol's Daughter Holdings LLC and Carol's Express

Dear Ms. Feisthamel:

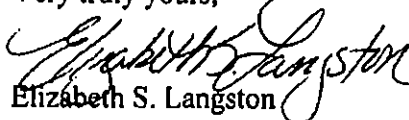
We represent Carol's Daughter Holdings LLC ("Carol's Daughter") in intellectual property matters.

We are currently investigating the use of the mark Carol's Express in connection with the advertising and distribution of beauty/personal care products. Enclosed for your reference are copies of pages from the Carol's Express Web site located at [www.carolsexpress.com](http://www.carolsexpress.com) and our client's Web site located at [www.carolsdaughter.com](http://www.carolsdaughter.com). You will note that the CVS/pharmacy logo is depicted on the Carol's Express Web site.

We have written to Carol's Express and hope to resolve this matter shortly. In the meantime, we wanted to bring this matter to your attention as a courtesy while we continue our investigation.

Please feel free to contact us if you have any questions.

Very truly yours,

  
Elizabeth S. Langston

Enclosures

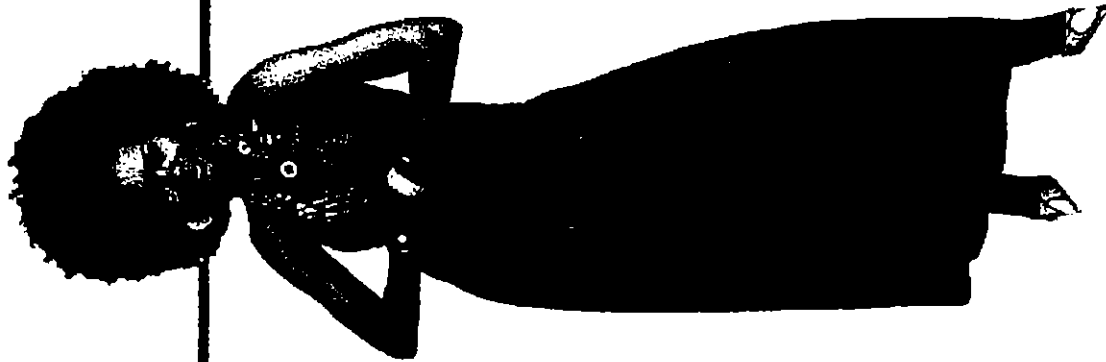
c: Ilene B. Tannen, Esq.

**Carol's**  
express

AVAILABLE  
RIGHT IN YOUR

Now you can have the  
Department Store  
experience without going to  
the mall. Carol's express is  
right around the corner  
right in your neighborhood.

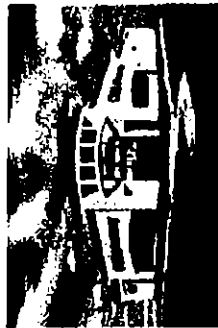
 shopping cart |  login | register



NEIGHBORHOOD

Find Carol's Express  
at a CVS/pharmacy  
store near you.



Store Locator



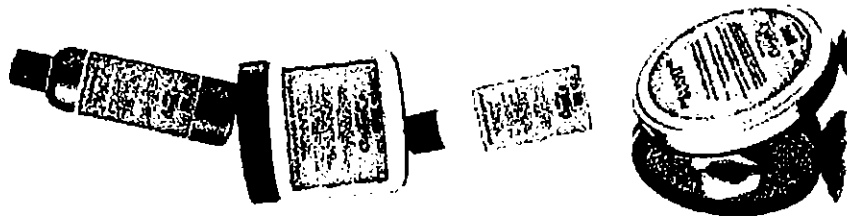
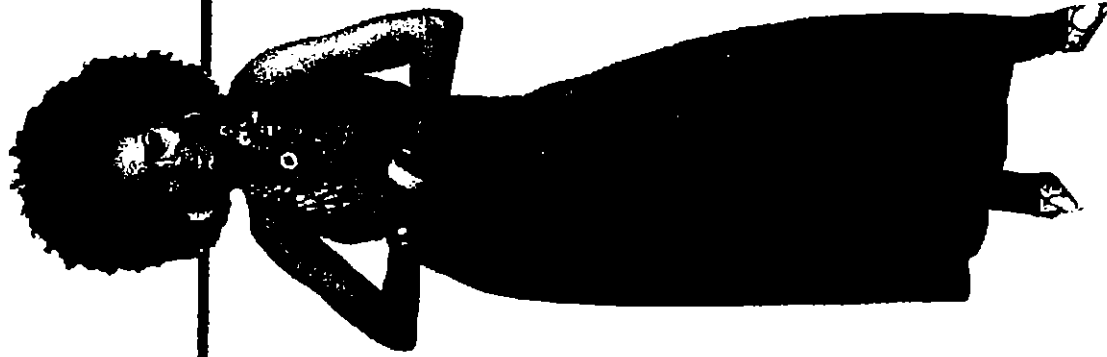
**CVS/pharmacy**

the beginning | the experience | the convenience | the collection | the fragrances | the story | the people



 shopping cart  login | register

*Carol's*  
express



AT LAST...

Express yourself.


Caress yourself.

Moisturize your skin  
with natural oils.

Wash away all  
that the day has done.

Prepare for all  
that the evening holds.

the beginning | the experience | the convenience | the collection | the fragrances | the story | the people



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Customer Service 877-648-2101 (Se habla español)

Keyword or Item #

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Shopping Bag

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Hair

Bath & Body

Fragrance

Skincare

Hands & Feet

Color

Men

Collections

Gifts

Home > Bath & Body > Body Cleansing Gels

Previous | NEXT



VIEW LARGER

## Groove Body Cleansing Gel

8 fl. oz.

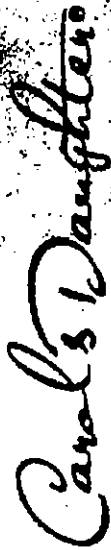
A natural soap blend, derived from coconut, olive and Jojoba oils combined with exotic aromas for a gentle rich lather that leaves skin fresh, clean, rejuvenated and moisturized. Perfect for shower or bath.

A seductive flow of red currant and sugared dewberries, embraced by undertones of decadent nuances of Tahitian vanilla, cocoa and rich musk add to the finishing touches.

- Vegetable soap
- Sodium lauryl/laureth sulfate, paraben and artificial color FREE
- Contains organic oils of coconut, Jojoba and olive
- Perfect for all skin types

Customer Reviews More Info Tell a Friend

Item#	Product	Qty	Price
05-	Groove Body Cleansing Gel -	We regret that this item is not available at	



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Customer Service 877-548-2101 (Se habla español)

Keyword or Item =    
Advanced Search

Shopping Bag  
0 items \$0.00

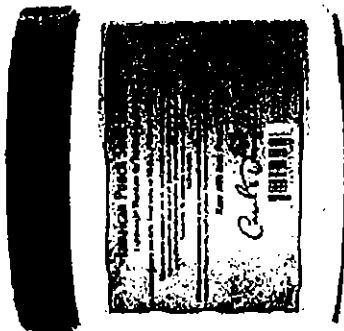
Hair	Bath & Body	Fragrance	Skincare	Hands & Feet	Color	Men	Collections	Gifts
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Home > Bath & Body > Shea Soufflés

◀ PREVIOUS | NEXT ▶

## Jamaican Punch Shea Soufflé

4 oz. - 16 oz.



[VIEW LARGER](#)

This luxurious formula is light and fluffy like a soufflé, but moisturizes skin with the intensity of a butter. It's packed with natural butters and oils to effectively nourish and hydrate dry, parched skin for a soft and velvety appearance.


A dazzling blend of Brazilian orange and Fiji apple combined with hints of exotic ylang-ylang, spicy canella bark and nutmeg, finished off with a sweet accent of tropical sugar cane.

- Perfect for very dry skin
- Contains 47% of natural butters and oils
- Penetrates deeply
- Paraben, mineral oil, petroleum, and artificial color FREE

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Item#	Product	Qty	Price
13-1160	Jamaican Punch Shea Soufflé	1	\$13.00 - \$30.00



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[Shopping Bag](#)  
0 items \$0.00

[Customer Service 877-548-2101 \(Se habla español\)](#)

<a href="#">Hair</a>	<a href="#">Bath &amp; Body</a>	<a href="#">Fragrance</a>	<a href="#">Skincare</a>	<a href="#">Hands &amp; Feet</a>	<a href="#">Color</a>	<a href="#">Men</a>	<a href="#">Collections</a>	<a href="#">Gifts</a>
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Home > Bath & Body > Lotions

[PREVIOUS](#) | [NEXT](#)

## Ecstasy Shea Body Lotion

8 fl. oz.

Our Shea Body Lotions are skin's dream come true! Infused with cranberry oil, vitamin E, olive oil and a remarkable amount of shea butter, at 15%, this lotion penetrates deeply into the skin to nourish, condition and moisturize for the incredible, beautiful skin you always dreamed of.

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- Absorbs into the skin quickly
- Paraben, mineral oil, petroleum, and artificial color FREE

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Item#	Product	Qty	Price
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Home > Bath & Body > Body Butters

[◀ PREVIOUS](#) | [NEXT ▶](#)



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## Groove Body Butter

4 oz.

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- Aqua free and glides on smoothly
- Paraben, mineral oil, petroleum, and artificial color FREE
- Contains shea and cocoa butter, Jojoba and sweet almond oil

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Item#	Product	Qty	Price
13-0209	Groove Body Butter (Tin)	1	\$18.00

# EXHIBIT 6

-----Original Message-----

From: Lakisha Cabell [mailto: [REDACTED]]  
Posted At: Saturday, July 19, 2008 8:14 PM  
Posted To: PR  
Conversation: Customer feedback - Public Relation Inquiries  
Subject: Customer feedback - Public Relation Inquiries

Customer feedback

First Name: Lakisha  
Last Name: Cabell  
email: [REDACTED]  
topic: Public Relation Inquiries

Message:

I am a huge fan of your products and have been for 3 years now. I was in a neighborhood CVS today and noticed what I think is your products on the shelves. I say think because the name says Carol's Express. So, I'm writing to find out if they are indeed Carol's Daughter products or not and if they are not, to strongly express how much these products DO look like Carol's Daughter. Please, send a response.

-----Original Message-----

From: Sonya Williams [mailto:[REDACTED]]

Posted At: Saturday, July 19, 2008 12:38 PM

Posted To: Customer Service Questions

Conversation: Customer feedback - Customer Service Questions

Subject: Customer feedback - Customer Service Questions

Customer feedback

First Name: Sonya

Last Name: Williams

email: [REDACTED]

topic: Customer Service Questions

Message:

Are the 'Carol's Express' products sold in CVS Carol's Daughter products or knock-offs???



-----Original Message-----

From: Candice Franze [mailto: [REDACTED]]  
Posted At: Monday, September 29, 2008 1:27 PM  
Posted To: Customer Service Questions  
Conversation: Customer feedback - Customer Service Questions  
Subject: Customer feedback - Customer Service Questions

Customer feedback

First Name: Candice  
Last Name: Franze  
email: [REDACTED]  
topic: Customer Service Questions

Message:

I recently visited my local CVS and noticed a product line called Carol's Expressions. Is this line affiliated with Carol's Daughter?  
I  
wanted to make sure before I tested the products and I didn't see any mention of it on the site.